

### **Remarks/Arguments**

Please reconsider the application in view of the above amendments and the following remarks.

### **Examiner Interview**

Applicant appreciates the telephone interview granted by examiner George Wang on May 22, 2003. In discussing the Amendment After Final, which was not entered, the examiner suggested that the new recitation in claim 1 should recite "wherein said plurality of optical fibers are strength members" instead of "wherein said plurality of optical fibers act as strength members" to avoid language that is functional in nature. Although the examiner indicated that such an amendment would require further consideration and the filing of a Request for Continued Examination (RCE), the examiner stated that the amendment distinguished over the prior art of record.

### **Disposition of Claims**

Claims 1-9, 21 and 22 stand rejected. Claim 1 is amended. Claims 1-9 and 21-22 remain pending. Claim 1 has been amended in accordance with the examiner's suggestion to clarify the invention. Applicant would like to point out that the "optical fibers" in the present invention are an optical signal transmission medium as well as strength members when combined with the material surrounding the optical fibers. In making this amendment applicant does not intend to exclude the primary purpose of the optical fibers as a transmission medium.

### **Objections**

Claims 21 and 22 are objected to under 37 C.F.R. 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. The examiner suggests that claims 21 and 22 fail to further limit the subject matter of a previous claim because the claims recite the manner in which a claimed apparatus is intended to be employed. Applicant traverses.

Applicant respectfully points out that dependent claim 21 further limits the subject matter of claim 4 by further defining the passageway as having "a narrow portion." Dependent claim 22 further limits the subject matter of claim 21 by further defining the ratio of the cross-sectional area of the fibers to the cross-sectional area of the narrow portion at "about 1/2." Thus, both of these dependent claims further limit the subject matter of a previous claim and comply with 37 C.F.R. 1.75(c).

Applicant further points out that the case cited by the examiner, *Ex parte Masham*, involves an issue of novelty over prior art and not an issue of proper claim dependency. Applicant directs the examiner to MPEP § 608.01(n) for a discussion of the proper test to be applied to determine improper claim dependency.

Accordingly, applicant requests that this objection under 37 C.F.R. 1.75(c) be withdrawn.

### **Rejections under 35 USC §103**

Claims 1, 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falkenstein, et al. ("Falkenstein"). Claims 2 and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falkenstein in view of Tanabe, et al. ("Tanabe"). Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falkenstein and Tanabe in view of Berry, et al. ("Berry"). Applicant traverses these rejections.

Applicant submits that Falkenstein, alone and in combination with Tanabe and Berry, fails to disclose or suggest an optical fiber device, as recited in claim 1, "wherein said plurality of optical fibers are strength members that reinforce said material." Although increasing the number of optical fibers often resulted in damage to fibers, the inventors in the present application discovered that the optical fibers of the present invention, when surrounded by the material, are also strength members that reinforce the material similar to reinforced concrete. Thus, the present invention prevents cracking or other damage to the material and subsequent damage to the plurality of optical fibers. See present specification, page 7, lines 23-26, and page 8, lines 1-3. The other arguments made the Reply dated December 3, 2002 are incorporated herein by reference.

Applicant further submits that the dependent claims would not have been obvious for the same reasons stated above. The arguments made with respect to the dependent claims in the previous reply dated October 29, 2002 are also incorporated herein by reference. Accordingly, applicant requests that the rejections under 35 U.S.C. 103 be withdrawn.

**Information disclosure statement**

An information disclosure statement (IDS) with a form PTO-1449 was filed on January 25, 2001 with the above-identified application, but the form PTO-1449 has not been returned with the examiner's initials indicating that the cited references have been considered. Applicant requests that the initialed form PTO-1449 be sent with the next office communication.

**Conclusion**


The claims have been shown to be allowable over the prior art. Applicant believes that this paper is responsive to each and every ground of rejection cited by the Examiner in the Action dated December 3, 2002. Accordingly, applicant respectfully requests favorable action in this application.

The applicant herewith petitions the Commissioner of Patents and Trademarks to extend the time for reply to the Office action dated December 3, 2002 for three month(s). Please charge deposit account number 50-0309 (Reference Number Girzone 2), in the amount of \$930.00 to cover the cost of the extension.. Any deficiency or overpayment should be charged or credited to the above numbered deposit account.

The examiner is invited to telephone the undersigned, applicant's attorney of record, to facilitate advancement of the present application.

Respectfully submitted,

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